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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 MARQUISE GRADY,

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12 Petitioner,

13 v.

14 M.D. BITER,

15 Respondent.
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Case No. 13-cv-2479-BAS(MDD)

**ORDER DECLINING TO ISSUE
PETITIONER A CERTIFICATE
OF APPEALABILITY**

[ECF No. 64]


18 On February 10, 2016, the Court overruled Petitioner Marquise Grady's
19 objections, approved and adopted in its entirety the magistrate judge's report and
20 recommendation, and denied Mr. Grady's petition for writ of habeas corpus brought
21 under 28 U.S.C. § 2254. (ECF No. 51.) Mr. Grady suggested that he wished to pursue
22 an appeal, but he did not receive the Court's February 10, 2016 Order within the time
23 period necessary to file a timely notice of appeal. (ECF No. 54.) Because the Court
24 lacked the authority to extend Mr. Grady's appeal deadline, it invited Mr. Grady to
25 file a motion for reconsideration instead. (ECF No. 55.) The Court denied Mr.
26 Grady's motion for reconsideration on the grounds that the arguments presented were
27 not properly before the Court under either Rule 59(e) or Rule 60(b). (ECF No. 61.)

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1 A certificate of appealability may issue only if the applicant makes a
2 substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). “A
3 petitioner satisfies this standard by demonstrating that jurists of reason could disagree
4 with the district court’s resolution of his constitutional claims or that jurists could
5 conclude the issues presented are adequate to deserve encouragement to proceed
6 further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack v. McDaniel*,
7 529 U.S. 473, 484 (2000). Mr. Grady failed to meet that standard. Because reasonable
8 jurists would not find the Court’s assessment of Mr. Grady’s arguments debatable or
9 wrong, the Court **DECLINES** to issue a certificate of appealability for the Court’s
10 April 10, 2017 Order (ECF No. 61). *See Slack*, 529 U.S. at 484.

11 **IT IS SO ORDERED.**

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13 **DATED: August 8, 2017**


14 **Hon. Cynthia Bashant**
15 **United States District Judge**
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